SAN FRANCISCO DISTRICT

US Army Corps
of Engineers

PUBLIC NOTICE

NUMBER: LOP 98-1 (formerly 96-1) DATE: May 4, 1998
RESPONSE REQUIRED BY: June 3, 1998

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

PERMIT MANAGER: Michael Lamprecht PHONE: 707-443-0855 mlamprecht@smtp.spd.usace.army.mil

The U.S. Army Corps of Engineers, San Francisco District (Corps), proposes to modify the Letter of Permission (LOP) procedure 96-1 for the authorization of work in Humboldt County, California described herein. The purpose of the LOP procedure is to streamline Section 404 Clean Water Act (CWA) (33 U.S.C. 1344)and Section 10 Rivers and Harbors Act (33 U.S.C. 403) authorization for excavation and related work not posing significant adverse individual or cumulative impacts to the aquatic environment.

The Corps is proposing to modify monitoring of the mining activities to ensure that gravel extraction projects are in compliance with the LOP. The original LOP 96-1 established one review team, CHERT, that was responsible for all of Humboldt County. Although this review team visited all the sites and established recommendations, it did not have sufficient time for early reviews. This LOP procedure does not eliminate this review team but allows for an additional team that would review the Trinity River projects that occur within the boundaries of Humboldt County and the Hoopa Reservation. This team would consist of one CHERT member and a representative appointed by the Hoopa Tribe. Both representatives shall have a hydrogeomorphological background. In addition, a botanist shall be a member of the Trinity Review Team. Other changes to the LOP procedure include clarifying the reporting system, modifying the monitoring requirements and increasing fall review of extraction sites.

The LOP 96-1 was authorized in August of 1996. The 1997 gravel extraction season was the first full year of operation under the LOP 96-1 procedure. Under LOP 96-1 a baseline vegetation report has been completed, a partial CHERT report was submitted in March 1997, and a full report was completed in February 1998. The vegetation report will be used for future reference, and does not need to be updated at this time, although a yearly review of the impacts to the riparian vegetation shall be completed.

The LOPs issued to authorize the individual work projects pursuant to the modified procedure will continue to contain limitations intended to protect the environment and natural and cultural resources. In cases where the District Engineer (DE) considers it necessary, application for individual permits shall be required.

The enclosed "Letter of Permission Procedure, Gravel Mining and Excavation Activities within Humboldt County" details the scope and location of work, terms and conditions, and application procedures pertinent to obtaining a Department of the Army LOP. In addition, it lists special conditions and monitoring activities that will be required to provide consistent information for decision making within this process.

PUBLIC INTEREST REVIEW FACTORS: The Corps has assessed the environmental impacts of this modification of the LOP 96-1 procedure in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers Regulations, 33 CFR 230 and 325, Appendix B, and has initially concluded a Finding of No Significant Impact (FONSI).

Consequently, the Corps has, at this point, determined that an Environmental Impact Statement (EIS) is not required.

PUBLIC REVIEW: Any person may make a comment on the proposed modification to the LOP procedure. Written comments should be submitted to the Corps of Engineers, Attn: Michael Lamprecht, P.O. Box 4863, Eureka, California, 95502. Telephone inquiries may be directed to Mr. Lamprecht at (707) 443-0855, or you may e-mail at: mlamprecht@smtp.spd.usace.army.mil.

LETTER OF PERMISSION PROCEDURE (LOP 98-1) FOR

GRAVEL MINING AND EXCAVATION ACTIVITIES WITHIN

HUMBOLDT COUNTY (Corps File No: 221521)

The purpose of the LOP procedure is to streamline Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 authorizations for gravel mining and extraction activities in Humboldt County, California. Only activities that would not pose significant adverse individual or cumulative impacts to the aquatic environment would be authorized under LOP-1.

The LOPs to be issued under this procedure will contain limitations intended to protect the environment and natural and cultural resources. In cases where the District Engineer (DE) considers it necessary, an individual permit will be required.

SCOPE OF WORK:

Work authorized by LOP under this procedure is limited to discharges of dredged or fill material associated with gravel mining activities in waters of the United States, including navigable waters of the United States, within Humboldt County, California. Activities that may be authorized by LOP under this procedure include, but are not limited to, sand and gravel mining and work associated with these activities, such as temporary stock piling of gravel in a dry section of the stream and construction of temporary coffer dams and road crossings. Impacts to waters of the United States, including wetlands and associated riparian vegetation, shall be avoided or minimized through the use of practicable alternatives. Reasonable compensation for unavoidable adverse impacts to waters of the United States will be required. Work that would have unmitigatable adverse impacts on the aquatic environment or would cause a substantial reduction in the extent of waters of the United States will not be authorized by LOP. The activities authorized under this LOP procedure shall be part of a single and complete project.

LOCATION OF WORK:

An LOP issued under the provisions of this procedure shall apply to work in waters of the United States, including navigable waters of the United States, within Humboldt County, California, and also any projects that straddle the county line.

EVALUATION PROCEDURES:

Applicants shall submit complete applications to the Corps for review to determine whether the excavation activity qualifies under this LOP procedure. If the activity qualifies under the LOP procedure, it will be authorized for three years. However, each permittee must participate in a comprehensive hydrogeomorphologic review of gravel projects on his/her river and submit yearly monitoring reports and data regarding extraction amounts, cross-sectional information, biological monitoring and aerial photos.

Each year, in March, the Corps will conduct a public interest evaluation and coordination meeting with the Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife

Service (USFWS), California Coastal Commission (CCC), California Department of Fish and Game (CDFG), and the California Regional Water Quality Control Board (RWQCB) to review new applications and yearly compliance data of previously authorized activities. If a proposed (new) activity will meet the conditions of the LOP procedures, it will be authorized by LOP. If an authorized activity has met the conditions of the LOP, and there is assurance that its planned operation for the next season will meet the LOP conditions, based on the information submitted, it will be allowed to continue for the next season under the existing authorization.

Should an agency or member of the public object to continuing an activity under an existing authorization, based on evidence of non-compliance or evidence of more than minimal impacts, the Corps may suspend and/or revoke the existing authorization and require an individual permit. The permittee may demonstrate compliance with the LOP, or reduce the future impacts of his/her operation to minimal impacts, and mitigate for past non-compliance in order to retain his/her authorization.

The LOP requires reports to be completed and submitted on February 1 of each year. The reports and content to be submitted are as follows:

The CHERT hydrogeomorphology report shall:

1. Review compliance of mining plans with Corps approved prescriptions;
2. Review past extraction recommendations and subsequent results, including quantity limitations, design modifications and setbacks;
3. Notify the Corps of any missing required extraction information;
4. Document evidence of aggradation/degradation;
5. Be submitted to regulatory agencies including Corps, Humboldt County and any appropriate Tribal Organizations;
6. Include a hard copy and an electronic copy of cross-section information by watershed and operation (Corps copy only).

The CHERT botanical report shall:

1. Record all impacts to riparian vegetation;
2. Comment on mitigation designs for compensation of impacts to riparian vegetation;
3. Review monitoring reports on the mitigation areas once they are planted;
4. Be due February 1, and submitted to the regulatory agencies, Humboldt County andany appropriate Tribal Organizations.

The Fisheries Report shall:

1. Present all fisheries study information required in Appendix D;
2. Be due February 1, and submitted to regulatory agencies, Humboldt County and any appropriate Tribal Organizations.

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1. Present all fisheries study information required in Appendix D;
2. Be due February 1, and submitted to regulatory agencies, Humboldt County and any appropriate Tribal Organizations.

APPLICATION PROCEDURES:

Applications shall be divided into two categories based on quantity of material removed from the river basins. The two categories are: Class A projects: Projects which remove 5,000 or more cubic yards of material per year; and Class B projects: Projects which remove less than 5,000 cubic yards per year of material.
In all cases, an application for authorization of work under this LOP procedure must include a written description of the project, proposed work schedule, the address and telephone number of a point of contact who can be reached during working hours, an 8.5 by 11 inch vicinity map, and an 8.5 by 11 inch site or location map showing all the boundaries of all work to be done (maps and figures may also be on 11 by 17 inch paper). The information may be submitted on an Application for Department of the Army Permit form (ENG Form 4345) or in any other form which will clearly supply the information in a concise manner. In general, single and complete projects that remove more than 250,000 cubic yards per year will not be considered eligible for authorization under this permit. Projects will also be considered in relation to other extraction operations on the same river.

- Class A Projects: Projects that remove 5,000 cubic yards or more of material from the river basin per year. Project submittal must include a description of the project and, at a minimum, the following information, unless modified by the Corps, on a yearly basis:

I. A pre-extraction report a minimum of two weeks prior to excavation. Pre-extraction reports shall include:

A. Cross-section Surveys: Monitoring and Extraction cross-section surveys shall be performed according to Appendix C (attached), unless modified by the watershed review team and approved by the Corps. Each year, spring surveys shall be submitted to the watershed review team. After review by CHERT, applicants shall submit gravel extraction plans with CHERT recommendations, to the Corps for approval, prior to commencing gravel extraction operations. Applicants can submit additional scientific data to the Corps that would support extraction designs that differ from CHERT recommended sites and quantities;

B. A Stream Alteration Agreement (SAA) or any SAA time extension signed by the CDFG, or a Riparian Protection and Surface Mining Permit signed by a Federally recognized Indian Reservation. These permits may be obtained concurrently with the Corps permit;

C. A pre-extraction aerial photo of the location. Photos shall be taken the spring of each year and shall include the entire project reach (extraction zone reach of the project site and immediate upstream and downstream reaches within one half length of the extraction zone reach of the project, as measured along the thalweg (the bottom of the low-flow channel)). Pre-extraction photos may be either vertical photos at a scale of 1:6000 or oblique photos showing the same detail. Photos shall diagram proposed extraction activities;

D. A vegetation impact evaluation completed by the applicant and also submitted to the CHERT botanist;

E. For new projects see #7 of the Requirements and Restrictions section below.

II. September compliance inspection: Gravel miners shall make an appointment with the Corps to have the Corps representative perform a site inspection to determine compliance with prescribed grade

requirements. All operations must have an inspection by October 1 in order to continue operations into October.

III. Late September/early October Stereoscopic photo coverage of the project reach: Photo coverage shall be taken in the low-flow periods (end of September/ beginning of October) and be at a scale of 1:12000. Photos shall be taken from a fixed or vertical oriented (i.e. belly-mounted) camera. Stereoscopic photo coverage shall be recorded on a 9 inch by 9 inch format. Copies of the photos shall be submitted to the Corps (7 copies) and one copy to the CHERT by November 1.

A. A post-extraction report shall be submitted to the CHERT by November 1 of each year. Post-extraction reports shall include:

1. A post-extraction survey (hard copy and electronic), which shall be conducted following cessation of extraction and before alteration of the extraction area by flow following fall rains, preferably before October 15. Post-extraction reports shall include the amount and dimensions of material excavated from each area mined and compliance information. See Appendix C for post-extraction requirements;

2. A longitudinal profile view of the thalweg for the active channel line along the project reach based on the monitoring cross-sections;

3. The vegetation report including vegetative impacts and a summary of any required mitigation monitoring.

B. A fish monitoring report shall be submitted to the Corps by February 1 of each year.

● Class B Projects: Projects that remove less than 5,000 cubic yards of material from the river basin per year. Class B projects must be physically separated from other gravel operations to be considered separate projects. Projects cannot be located on the same gravel bar or on the same parcel number as other projects. The Corps reserves the right to elevate a Class B project to Class A status.

Project submittal must also include a description of the project and, at a minimum, the following information, unless modified by the Corps, on a yearly basis:

I. A pre-extraction report that includes:

A. Plan and cross-section view drawings of the project site on 8.5 by 11 inch or 11 by 17 inch paper. Drawings shall be labeled with dimensions and quantities of material removed from each site. Plan views must map any salmonid spawning sites. Report shall also include CHERT's review recommendations. Applicants may submit additional scientific data to the Corps that would support extraction designs that differ from CHERT recommended sites and quantities;

B. A minimum of one monitoring cross-section and five extraction cross-sections per extraction site (See Appendix C for cross-section details);

C. A copy of the SAA signed by the CDFG, or a Riparian Protection and Surface Mining Permit signed by the Federally recognized Indian Reservation. These permits may be obtained concurrently with the Corps permit;

D. Photos of the mining area before excavation. Photo location shall be mapped (location and direction) to maintain consistency with post-extraction report photos.

E. Mapping and description, including size, species and number, of any riparian vegetation that will be removed, cut, or within 25 feet of excavation, stockpiling or trafficking of gravel. Also included in submittal shall be wetland impact assessment and a mitigation plan to minimize any unavoidable impacts.

II. A post-extraction report shall be submitted to the CHERT by November 1 of each year. Post-extraction reports shall include:

A. Post-extraction data for extraction and monitoring cross-sections according to Appendix C.

B. Quantity calculations of extracted amounts.

C. Photos of the mining area after excavation. Photos shall be taken from the same location as pre-project photos. A copy of the photos shall also be submitted to the Corps.

REQUIREMENTS AND RESTRICTIONS:

Projects authorized under the LOP procedure are subject to the following limitations. The Corps has the right to add or modify conditions as appropriate.

1. **Excavation:** Excavation for gravel mining purposes shall not occur in the active channel (area where water is flowing unimpeded through the river channel). Excavation shall remain a minimum of 1 vertical foot elevation above the current water surface and/or a minimum of 6 feet horizontally from the current water's edge (this setback is known as the buffer). To aid compliance with these setbacks, the area of extraction shall be clearly flagged, painted with an environmentally benign paint, or staked. Excavated material shall be skimmed off the surface. Other methods of excavation, such as trenching, may be approved by the Corps. However, these alternative designs must be discussed with other resource agencies and the CHERT prior to submitting the extraction plans in the spring.

Temporary storage of excavated material may occur on the gravel bar, but must be removed by October 1. Temporary stockpiling of gravel on bars of rivers listed under the Wild and Scenic Rivers Act may occur during the active work week, Monday through Saturday, but must be removed on or before Saturday of each weekend. Work on gravel bars shall be limited to daylight hours. Modifications to excavation procedures may be made to increase fisheries and wildlife habitat with Corps approval. Haul roads shall follow the shortest route possible while avoiding sensitive areas such as riparian vegetation, and shall be scarified after extraction is complete to prevent compaction of the gravel bar.

All riparian woody vegetation and wetlands must be avoided to the maximum extent possible. Any riparian vegetation or wetland that is to be disturbed must be clearly identified by mapping. Impacts to woody vegetation that is part of a contiguous 1/8 acre complex, or vegetation that is at least 2 inches diameter at breast height

(DBH) must be mitigated. Impacts to other woody vegetation must be described and submitted to the Corps with the gravel extraction plans. These impacts may require mitigation at the discretion of the Corps. Impacted areas which must be mapped consists of riparian vegetation which have driplines within 25 feet of excavation activities (excavation, stockpiling, parking, etc...) or wetlands which are filled, excavated or drained. Mitigation for impacts to woody vegetation shall not be required for pre-existing haul roads, stockpile areas and facilities (See discussion under Required Mitigation).

Gravel removal must occur at a minimum distance of 500 feet from any structure (i.e. bridge, water intake, dam, etc...) in the river. For bridges, the minimum setback distance is the length of the bridge or 500 feet, whichever is greater. Gravel removal may encroach within this setback if approval is given by owners of these structures and approved by the Corps.

2. **Regrading:** The project area must be regraded before the water levels rise in the rainy season or by October 15, whichever is first. Regrading includes filling in depressions, grading the construction/excavation site according to prescribed grade, sloping downward to the upper buffer's edge and/or downstream, and removing all temporary fills from the project area.

3. **Timing:** Unless the letter of permission is specifically modified, gravel extraction shall not commence until June 1, and shall cease by October 1 of each year unless the Corps's September site review results in permission to extract gravel into October. Regrading shall be completed prior to October 15 of each year. Requests for time extensions will be reviewed on a case by case basis. The applicant, however, must have regraded the site before an extension can be authorized. Requests for time extensions must include an approved CDFG SAA extension or exemption.

4. **Stream crossings for gravel mining purposes:** The size and number of stream crossings must be kept to a minimum. All stream crossings must be spanned to the maximum length possible using either a flatcar or bridge span, and must maintain a three-foot elevation above the water surface. Culverted crossings may be utilized in certain circumstances where the size and nature of the crossing dictates that culverts are more appropriate. Information describing the need for culverts must be submitted with culvert requests and shall be supplied to the CDFG and the Corps. All crossings and associated fills must be identified as to the type (culvert vs. flatcar) and location in the submitted yearly information and must be removed before October 15 of each year unless specifically modified in any time extension authorized by the Corps.

5. **Wild and Scenic Rivers:** Sections of the Eel, Klamath, Trinity and Van Duzen rivers in Humboldt County are designated recreational and scenic. For a list of these recreational and scenic river sections see Appendix B. For new projects (any project which has not been previously authorized by the County or a Federally recognized tribe by vested rights, conditional use permit or exemption by written notice, as of April 3, 1996) in these river sections, the applicant must provide information demonstrating that the activity will not degrade the fisheries, historical, scenic and/or recreational values for which the river is designated. For example, a new mining operation that included a processing plant to be constructed along a scenic river generally would not be authorized by this letter of permission.

6. **Endangered Species:** All new applicants shall submit, as part of the application, a written assessment by a qualified biologist describing the potential effects of the project on federally threatened, endangered, or proposed species under the Endangered Species Act. This assessment shall include, at a minimum, an account of habitat suitability within a 0.25 mile radius of the project site, and pertinent sighting information from available

sources including, but not limited to, wildlife sighting databases maintained by the California Department of Fish and Game and U.S. Fish and Wildlife Service.

Permittees with operations on the main stem Eel River, downstream of the confluence with the Van Duzen River, may affect the western snowy plover. After going through informal consultation with the USFWS, it has been determined that these projects are not likely to adversely affect the western snowy plover if operators follow the conditions of Appendix E. Operators with projects on the main stem Eel River, below the confluence with the Van Duzen River, who intend to commence operations not in accordance to Appendix E shall notify the Corps so that it can initiate consultation with the USFWS in compliance with Section 7 of the Endangered Species Act.

See Appendix E, for other procedural requirements for obtaining a not likely to adversely affect determination for the northern spotted owl.

7. **New projects:** For new projects, the applicant must submit a preliminary project description. The description must include excavation and processing locations on a USGS topo map, estimated quantity of material proposed to be excavated, and the Endangered Species assessment to the Corps by February 1 of the year in which gravel extraction is to occur. Projects removing 5000 cubic yards or more of material must also submit aerial photos.

8. Additional special conditions may be added to the LOP on a case by case basis to minimize adverse impacts to the aquatic ecosystem and to the scenic and recreational values of the rivers listed in the Wild and Scenic Rivers Act.

In addition to limitations discussed above, projects authorized by LOP are subject to the general conditions contained in Appendix A and any special conditions that may be added.

AUTHORIZATIONS FROM OTHER AGENCIES:

The permittee is responsible for obtaining any and all additional federal, state, tribal, or local permits that may be required, which include, but are not limited to:

1. **State Water Quality Certification:** California's Regional Water Quality Control Board's (RWQCB) certification is required for work within the state of California, except for work within the boundaries of a Federally recognized Indian Reservation (See #5 below). The State has adopted water quality standards including implementation measures which avoid and mitigate adverse impacts and prohibit discharges which pollute waters of the State. Gravel mining extraction activities authorized under the original LOP procedure were activities for which the State has waived site specific prescriptive regulation so long as the activity complies with specific conditions and does not violate the standards. Since the RWQCB waived prescription of waste discharge requirements, the State would take no further action on requests for "401 Certification" for activities that fall within the scope of the waiver. The State, however, retains full authority to enforce its standards. With this public notice, the Corps is requesting confirmation from the RWQCB that the same waiver pertains to this modification.

The State of California has adopted general National Pollution Discharge Elimination System (NPDES) permits to cover those mining activities which must obtain permits to discharge stormwater associated with industrial activity (as defined in 40 CFR Section 122.26(b)(14)). For information about NPDES requirements, applicants can contact the RWQCB, North Coast Region, at 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

2. **Streambed Alteration Agreement:** When streambed materials such as sand and gravel are to be disturbed or removed from waters in the State of California, the permittee must obtain a Stream Alteration Agreement from the CDFG, except when working within the boundaries of a Federally recognized Indian Reservation (See #5 below). To obtain a stream alteration agreement or an extension to an existing stream alteration agreement, the permittee may contact the California Department of Fish and Game at Region 1, 601 Locust Street, Redding, CA 96001.

3. **Conditional Use Permit:** All gravel and mining operations must either be permitted or exempted by the California Department of Conservation Division of Mines and Geology's Lead Agency (Lead Agency), except for work within the boundaries of a Federally recognized Indian Reservation (See #5 below). The Lead Agency for Humboldt County is: Humboldt County Planning Office, 3015 H Street, Eureka, California 95501.

4. **Coastal Zone:** Sand and gravel extraction and other development activities located within the Coastal Zone may require a Coastal Development Permit and a Coastal Zone Management Act Consistency Concurrence from either the California Coastal Commission located at 45 Fremont Street, Suite 2000, San Francisco, California 94105-2219, or the County of Humboldt Planning and Building Department located at 3015 H Street, Eureka, California 95501.

5. **Tribal Authorization:** Activities within the boundaries of a Federally recognized Indian Reservation need to obtain Water Quality Certification from the EPA or from the Indian Reservation (if it is authorized by the EPA to grant water quality certification). In addition, there may be other permits required by the Indian Reservation that are not listed here. The applicant shall contact the appropriate Indian Reservation for more information.

6. **State Lands Commission:** Activities that occur below the mean high water mark on tidal waterways and below the ordinary high water mark on non-tidal waterways may have to obtain easements from, or pay fees to, the California State Lands Commission (SLC). The SLC can be contacted at 100 Howe Avenue, Suite 100 South, Sacramento, California 95825-8202, or (916) 574-1800.

GENERAL TIME FRAMES:.

February 1

1. Reports are due.
   - Comprehensive, annual, hydrogeomorphologic report is due. Report shall evaluate past year's extractions and compliance, provide recommendations on future extractions and give a comprehensive review of river changes.
   - Vegetation report is due. Report shall include mitigation monitoring, vegetation impacts and proposals for mitigation.
   - Fish monitoring report is due.
2. New projects (See Application Procedures for definition of Class A and B projects) must submit notification to the Corps with environmental documentation.

March — Gravel Meeting: Corps meets with other Agencies to review permit applications.

SPRING
1. Aerial oblique photos to be taken for Class A projects, copies to be given to CHERT.
2. Gravel extraction plans reviewed by CHERT. **Plans must be submitted with CHERT's recommendations**, to the Corps, prior to Corps approval.

September
1. Stereoscopic aerial pictures to be taken.
2. Corps makes site visits to operations.

October 1 All gravel extraction ceases if grading and extraction quantities are not in compliance with LOP guidelines. All gravel stockpiles must be removed from all rivers by this date.

October 15 Regrading must be completed for all gravel bars. All gravel extraction ceases on river bars, unless a time extension is given by the Corps and CDFG or tribal authority. No time extensions shall be given if crossings have been washed out by high flows.

November 1 Post cross-section data submitted to Corps and to CHERT.

REQUIRED MITIGATION:

Each permittee shall mitigate impacts to wetlands and riparian zones in the following sequence: avoidance of the impact; minimization of the impact, rectifying the impact, reducing or eliminating the impact over time, and finally, compensating for impacts. For all unavoidable impacts a mitigation plan shall be submitted with applications for all projects that will adversely affect wetlands and riparian vegetation. Mitigation must consider the size and age of the vegetation removed or adversely impacted. All vegetative mitigation must be planted between November 1 and February 28 of the year following excavation and must have a Corps approved survival rate over three growing seasons. Failure to obtain a three-year survival rate shall require replanting. Annual reports describing vegetation survival shall be due by November 1 each year for three growing seasons after planting year.

SITE VISITS:

Each year project owners must also inform the Corps upon completion of gravel removal so that a site inspection can be scheduled before the rainy season commences. Notification shall occur within two days of project completion.

APPLICATION SUBMITTAL:

Applications should be mailed to: U.S. Army Corps of Engineers, Regulatory Branch, Eureka Field Office, Attention: Mr. Michael Lamprecht, P.O. Box 4863, Eureka, California 95502. If you have any questions you can telephone the Eureka Office at (707) 443-0855 or e-mail at: mlamprecht@smtp.spd.usace.army.mil. Work may not proceed until the District Engineer has issued an LOP. For projects which have obtained the LOP, the activity may not begin each year until a confirmation letter has been issued by the Corps. It is the applicant's responsibility to insure that the authorized project meets the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899.

The Corps is responsible for determining compliance with this LOP. The Corps may take actions to rectify projects that are not in compliance. These actions may include, but are not limited to, the following:

A. Permit suspension.

B. Permit modification, including the reduction of the authorized annual gravel extraction amount and habitat restoration.

C. Project revocation.

No authorization will be granted under a LOP for any excavation or grading that is for the primary purpose of river engineering, channel or river capture, channel realignment or for a project that is likely to result in the above, unless approved by the Corps after notifying the regulatory agencies. Projects outside the scope of this LOP will be considered for authorization by individual permit.

This permit shall become effective on the date of the signature of the District Engineer, or his authorized representative, and will automatically expire December 31, 2001 unless the permit is modified, revoked, or extended before that date. Activities authorized under this permit that have commenced (i.e. are under operation), or are under contract to commence in reliance on this permit, will remain authorized provided the activity is completed within twelve months of the expiration, modification, or revocation of the permit, unless discretionary authority has been exercised by the Corps on a case-by-case basis to modify, suspend, or revoke the authorization. Prior to expiration, a public notice seeking public comment will be issued. The public notice will supply a summary of past actions and may also seek reauthorization of this LOP procedure.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Richard G. Thompson
Lieutenant Colonel, Corps of Engineers
District Engineer

APPENDIX A

CONDITIONS OF LETTERS OF PERMISSION ISSUED UNDER "Gravel Mining and Excavation Activities in Humboldt County"

GENERAL CONDITIONS:

1. The Department of the Army has relied in part on the information provided by the permittee. If, subsequent to issuing this permit, such information proves to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part.

2. Permittees whose projects are authorized by this LOP shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.

3. An LOP should not be considered as an approval of the design features of any authorized project or an implication that such is considered adequate for the purpose intended. A Department of the Army permit merely expresses the consent of the Federal Government to the proposed work insofar as public rights are concerned. This permit does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. Nor does it relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located and to address all non-encroachment restrictions within a floodway of such local jurisdiction as identified by the Federal Emergency Management Agency.

4. This LOP procedure may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that immediate suspension of the project would be in the public interest.

5. Any modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.

6. This permit does not authorize the interference with any existing or proposed Federal project. The permittee shall not be entitled to compensation for damage or injury to the structures or activities authorized herein which may result from existing or future operations undertaken by the United States in the public interest.

7. No attempt shall be made by the permittee to prevent the full and free public use of all navigable waters of the United States, at or adjacent to the project authorized herein.

8. There shall be no unreasonable interference with navigation by the existence or use of the permanent and temporary structures authorized herein.

9. The permittee shall make every reasonable effort to conduct the activities authorized herein in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, and riparian

areas.

10. The permittee shall allow the District Engineer and his authorized representative(s) to make periodic inspections at any time deemed necessary to assure that the activity being performed under this authorization is in accordance with the terms and conditions prescribed herein.

11. The impact of activities authorized by this LOP procedure on cultural resources listed, or eligible for listing, in the National Register of Historic Places (NRHP), shall be taken into account by the U.S. Army Corps of Engineers (Corps) prior to the initiation of work. If previously unknown cultural resources are encountered during work authorized by this permit, the San Francisco District shall be notified and the sites avoided until the Corps can assess their eligibility for listing in the NRHP. Sites determined to be eligible for listing in the NRHP shall require consultation between the Corps and the State Historic Preservation Office and/or the Advisory Council on Historic Places. Cultural resources include prehistoric and historic archeological sites, and areas or structures of cultural interest that occur in the permit area.

12. All temporary fills within waters of the U.S. shall be removed in their entirety.

13. All extraction activities in the vicinity of federal projects shall be coordinated for required setback distances with the Corps office prior to application for a permit.

14. Heavy equipment working in wetlands shall be placed on mats, or other measures shall be taken to minimize disturbances to soil.

15. No authorization will be granted under this LOP procedure for any activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or that is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the District Engineer if any listed species, proposed species or critical habitat might be affected by, or is in the vicinity of, the project, and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

16. The project shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

APPENDIX B

WILD AND SCENIC RIVER SECTIONS IN HUMBOLDT COUNTY, CA

River	Section	River Designation
Eel River	Humboldt County Line to the Pacific Ocean	Recreational
South Fork Eel River	Humboldt County Line to the confluence with the Eel River	Recreational
Klamath River	Humboldt County Line to the Pacific Ocean	Recreational
Trinity River	Confluence with the South Fork Trinity River to west boundary of Section 2 T8N R4E	Recreational
Trinity River	West boundary Section 2 T8N R4E to confluence with Klamath River	Scenic
South Fork Trinity	Humboldt County line to Todd Ranch in Section 18 T5N R5E	Wild
South Fork Trinity	Todd Ranch in Section 18 T5N R5E to confluence with the Trinity River	Scenic
Van Duzen River	From Dinsmore Bridge to power line crossing above Little Larabee Creek	Scenic
Van Duzen River	From the power line crossing above Little Larabee Creek to the confluence with the Eel River	Recreational

APPENDIX C

CROSS SECTION GUIDELINES FOR GRAVEL EXTRACTION IN HUMBOLDT COUNTY

Cross-sections, maps, and associated calculations such as extraction volumes, must be prepared under the direction of a State of California Licensed Land Surveyor or a legally authorized Professional Engineer and certified as to content and accuracy.

Monitoring cross-sections are permanent, monumented cross sections whose purpose is to document yearly and long-term changes in river channel elevation and morphology at extraction sites. They also aid in extraction planning and in estimation of volumes extracted.

Extraction zone cross-sections are temporary, seasonal cross-sections used for the planning an extraction, for estimation of the actual volume extracted, and for evaluating compliance with Corps approved gravel plans. The extraction zone is the total area that will be extracted and/or graded as a result of gravel extraction activities.

I. Standards for Monitoring Cross-Sections:

A. Number and layout of required cross-sections for extraction projects shall follow the guidelines below:

1. A hypothetical center line for the river channel, measured equidistant from both banks and delineating the actively scoured channel (bankfull width) must first be established to determine the length of the project line.

2. If the radius of curvature is less than ten times larger than the average actively scoured channel width of the project reach, the reach is considered a bend. If the radius of curvature is more than ten times larger than the average actively scoured channel width of the project reach, the reach is considered straight.

3. Cross-sections shall be oriented perpendicular to the center line.

4. Cross-sections shall be no more than 400 feet apart on bends and 500 feet apart in straight reaches or river width apart, whichever is greater. If the length of the project reach is not evenly divisible by 400 or 500 feet, the number of cross-sections should be rounded to the next larger number.

5. The first cross-section shall extend across the channel at the upstream limit of the project reach (entire project site); the last cross-section shall extend across the channel at the downstream limit of the project reach.

B. Cross-sections shall extend completely across the river channel (so as to include all actively scoured channel width) and shall terminate either on banks in mature riparian vegetation (clearly older than 10 yr;

DBH >4 in.), or on the 10-year flood terrace.

C. Two bench marks (permanent monuments) shall be established for each bar above the watercourse's active banks and in positions such that they will not be eroded away by relatively frequent (< 10 yr flow) events. Bench marks shall be tied to a common vertical and horizontal control datum, the 1988 North American Vertical Datum (NAVD) and to the 1983 North American Datum (NAD), among all extraction sites.

D. Cross-section endpoints and tie points shall be clearly monumented and labeled in the field and accurately located on current airphotos and maps. A common color of flagging, or environmentally benign painting shall be used to mark cross-sections at all sites.

E. Cross-section endpoints shall be placed far enough away from eroding banks that they will not be removed by relatively frequent flows (e.g., by floods smaller than the 10-year event).

F. Cross-sections shall be resurveyed each year. End points shall be the same unless eroded away. New endpoint will have negative numbers if zero endpoint is missing. New cross-sections shall be added as necessary as the river's course shifts, and shall be oriented approximately normal to the channel center line.

G. Pre-extraction cross-section surveys need only include those portions of each cross-section inundated by the previous winter's highest flow. If the highest flow of the season occurs after the cross-section survey is completed, the cross-section must be resurveyed. All Class A monitoring cross-sections shall be surveyed each spring, regardless of whether extraction took place in the previous year.

H. Post-extraction cross-sections need only be resurveyed through those portions of the cross-section altered by extraction, temporary stockpiles, road construction, equipment storage areas or grading.

I. The permittee shall stake or spray paint the following points on the ground in each cross-section at the time of survey:

1. Water's edge, on both sides of the river; or if this is not practicable, stake at 10 ft offset (measured along ground surface) from water's edge. Position of stake to be included in survey.
2. Both sides of river, one hub (2 inch by 2 inch wooden stake), painted brightly and labeled, shall be driven in nearly flush with the ground at the survey point closest to midway between water's edge and cross-section endpoint. Exception: this is not required if it would put the stake in a steep eroding bank.
3. Stakes should be labeled with cross-section and station number (horizontal distance from left end point).

II. Standards for Extraction Zone Cross-Sections

A. The number and layout of extraction cross sections for an extraction project shall follow the guidelines below:

1. A hypothetical center line for the proposed extraction, located equidistant from both edges of the extraction zone and extending down its long axis, must be established.

2. A minimum of 5 equally-spaced extraction cross-sections to be surveyed in each extraction zone.
3. Cross-sections shall be oriented perpendicular to the extraction center line.

B. Extraction cross-sections shall be surveyed in prior to extraction, and shall be used to design extraction and to estimate extraction volume.

C. Extraction cross-sections shall be resurveyed after extraction is complete.

D. Extraction cross-sections shall have temporary (seasonal) monuments at each end, such as stakes or rebar, which can be relocated after extraction is complete. Extraction cross-sections shall be clearly staked and marked on the ground so that the watershed review team can readily locate them in the field.

III. Preparation of Cross-Sections.

A. All Cross-Sections shall be prepared according to the following criteria:

1. Surveyed cross-sections shall be noted to the nearest 0.1 ft and should include: end points and ground surface elevation at end points and all obvious breaks in slope.

2. Cross-sections shall be tied to a common vertical and horizontal control datum among all extraction sites. This is specified as the 1988 North American Vertical Datum (NAVD) and 1983 North American Datum (NAD) elevation for sea level.

3. Cross-sections at all sites shall be plotted at the same simple, usable vertical and horizontal scales. All cross-sections must have a vertical exaggeration of 10. Scales for cross-sections are 1 in. = 100 ft. Cross-sections may be cut and stacked so that whole cross-sections can be placed on one page. Cross-sections that are cut and stacked must be consistently presented each year.

4. Cross-sections shall be surveyed and drafted consistently so that the right bank (RB) of the river as one faces downstream is at the right side of the drafted cross-section.

5. Zero (0) distance in cross-sections shall be at the left bank (LB) endpoint as one faces downstream, unless replaced by a negative number as the bank erodes.

6. Cross sections shall be plotted on grid paper, where the grid logically corresponds to the scale at which the cross-section is plotted. We suggest a grid of 10 squares to the inch. The grid shall be visible in the reproduced paper copies provided to the watershed review team.

7. Cross sections shall be clearly labeled vertical and horizontal axes. Each cross section should have its own horizontal axis to facilitate measurement of distances (rather than a single set of axis labels at bottom of page). Each cross-section should have its origin on a heavy grid line.

8. Any vertical or horizontal datum or endpoint changes shall be clearly noted along with the length and direction of change(s) on the cross section plots.

9. Maximum distance between any two elevational points along a cross-section shall be 50 feet, including wetted portion. Exception: if ground outside wetted channel is essentially level for a distance of 500 feet, distance between points may be increased to 100 feet. All obvious breaks in slope must still be included.

10. Elevations, notations, etc. on the cross-sections shall be clearly legible.

11. The net cross-sectional area change pre-extraction to post-extraction, or post-extraction to next year's extraction, as appropriate, shall be calculated for each cross-section. Measurements and calculations shall be included in the report.

12. The survey data for each cross section shall be provided to the CHERT on a 3.5" diskette as a digital file in ascii text format (alphanumeric, tab-delimited). The data should be grouped by cross-section and organized from L bank to R bank, using the format below: An example is shown.

- XS 20+78
- Point Horizontal
- No. Offset elevation description
- 45 50 57.94 LB rebar
- 46 ... ...

- A paper printout of the data shall also be supplied.

13. Cross-sections for planning extractions shall be surveyed in late May of the year in which extraction is proposed. Cross-sections following mining shall be surveyed as soon as practicable after mining ends, and definitely before winter high flows occur.

B. **All monitoring cross sections shall also include:**

1. Where discernible, the elevation and position of high-water marks for previous winter's flow (floodmarks); these should be consistently determined among cross-sections.

2. Water-surface elevation and location (both banks) at time of survey.

3. Cross-sections shall include the river bottom (especially location of the thalweg) as well as the water surface. Water surface elevation alone is insufficient; the bed must be included.

4. Elevation and location of top of silt band ("bathtub ring") if visible at time of survey.

5. Location of major vegetation breaks, e.g., edge of willows or riparian forest.

6. Water discharge at time of survey (from nearest USGS gage) to be shown in cross-section legend.

7. Floodmarks, silt line, water's edge, monuments, and review reference stakes shall all be clearly labeled in the cross-section and their elevations indicated.

8. For spring cross-section data, all monitoring cross-sections shall include the current year's spring cross-section overlain on the previous year's spring and fall (if any) cross-sections. The area of actual extraction shall be lightly shaded or hatched. Water-surface should be shown with a dotted line, and its measurement date clearly indicated.

9. For the pre-extraction survey, the total volume change since the previous year's post-extraction survey should be calculated using double end-area or computer generated digital terrain models. All measurements and calculations should be included and verified by a California Licensed Land Surveyor or legally authorized engineer.

10. For post-extraction cross-section data, all monitoring cross-sections which overlap the extraction area shall include the current year's post extraction cross section data overlain on the current year's pre-extraction cross-section data and the previous year's post extraction cross-section data and the original prescription recommended by the watershed review team. The post-extraction cross-section shall be shown with a solid line, the pre-extraction with a dashed line. The actual area of extraction shall be lightly shaded or hatched.

C. **All Extraction Cross-Sections shall also include**:

1. Spring extraction cross-sections shall include the spring cross-section data overlain on the Corps approved prescription cross-section. The proposed area of extraction should be lightly shaded or hatched.

2. Post-extraction cross-sections shall include the fall cross-section data overlain on the previous year's post extraction (if any) and the current year's pre extraction cross-section data and the CHERT recommended prescription cross-section. The actual area of extraction should be lightly shaded or hatched.

3. The net cross-sectional area change pre-extraction to post-extraction shall be calculated for each cross-section. Total volume extracted shall be computed, using double end area or computer generated digital terrain models. All measurements and calculations shall be included and verified by a California Licensed Land Surveyor or legally authorized engineer.

IV. Preparation of Maps:

A. All site maps shall be prepared on a color photocopy of an aerial photo from the current year. Photos may be obliques for spring surveys. Site maps shall show the river and the proposed extraction area. Site maps shall have a scale of 1:6000 (1 in = 500 ft).

B. All monitoring cross-sections shall be accurately located and labeled on the site map. In particular, the end points of each cross-section must be located in their true positions, not just guessed at or estimated.

C. Pre-extraction photos shall be taken when the river is low enough to see the channel and shall be used for the site map.

APPENDIX D

BIOLOGICAL MONITORING REQUIREMENTS FOR GRAVEL EXTRACTION IN HUMBOLDT COUNTY, CA

The purpose of the biological monitoring is to identify adverse impacts that can be avoided, minimized or mitigated by mapping important resources such as fish habitat and riparian vegetation. This monitoring plan is not a river management plan but part of the Corps regulatory requirements to ensure protection of the aquatic ecosystem.

Each applicant will study his/her project reach which shall include the gravel extraction reach (or zone) and distances upstream and downstream of the gravel extraction area equal to half the gravel extraction reach. Modifications to the project reach may be made by the Corps for projects in close proximity to other gravel operators, and for projects that span large distances with relatively small excavations. Each Class A applicant shall submit the following biological monitoring data to be obtained by a qualified biologist. Each applicant is responsible for ensuring that all data submitted is accurate and obtained by qualified individuals.

A. Vegetation:

1. All riparian and wetland vegetation that has been impacted by current year's operations shall be mapped and described and submitted to the Corps and the CHERT botanist. Information on potential impacts shall be submitted with the original extraction plan and then verified at the end of the extraction season.

B. Anadromous Fish:

1. Temperature readings shall be taken on a yearly basis, between July 1 and October 31 to help document and locate cold water refugia suitable for anadromous fish, document temperature stratification, and document ambient temperature. Researchers shall record the temperature of suspected cold water refugia using continuous recording thermometers (long-term temperature recorders) that only need to be read once per month. Modifications of temperature recordings may be modified on a site by site basis, based on the fisheries biologist's recommendation and Corps approval. Each operation shall document the rationale for the number of recorders and the placement of recorders.

2. Project reaches for all class A projects shall be annually surveyed using snorkeling or visual surveys to document adult salmonid upstream migration patterns, use of holding areas such as pools, and how fish generally distribute themselves while they are migrating up the rivers and possible mitigation projects. Dives shall be performed for all class A projects unless the CDFG, the fisheries biologist and NMFS state that dives would not be appropriate and the Corps approves. Surveys shall begin September 1 and continue every ten days through December 1 as water conditions (flow and visibility) permit. Any redds observed shall be mapped. Redd locations and survey dates shall be submitted in the February report.

3. An annual adult summer steelhead snorkeling survey shall be conducted once each year. The annual survey shall occur between July 1 and August 31 and shall survey all pools within the project reach. Pools where fish are present shall be mapped.

4. Incidental information relating to the impacts of gravel extraction on the aquatic system, methods to reduce these impacts, and other impacts to anadramous fish (i.e. poaching, turbidity impacts, unusual fish presence etc...) shall be documented in the report.

C. Birds:

1. Permittees with operations on the Eel River downstream of the confluence with the Van Duzen River shall conduct Snowy Plover surveys on the gravel bars that are scheduled for extraction and/or will be used in haul routes between March 1 and September 15. Surveys shall be conducted within a two week period prior to operation. Each gravel bar shall be thoroughly searched twice for nesting, foraging or resting Snowy plovers. The surveys shall be conducted 6-7 days apart. Surveys must be conducted by a biologist authorized by the U.S. Fish and Wildlife Service to perform Section 7 surveys on the plover.

2. Any gravel operation that begins in the spring (March, April or May) may adversely affect nesting and brooding activities of avian species. Monitoring of avian species to determine use of riparian areas and gravel bars according to sex, age, and breeding status may be required of any operator who commences gravel extraction before June 1. The monitoring protocol shall include point counts and mist netting and shall be approved by CDFG and USFWS personnel.

APPENDIX E

WESTERN SNOWY PLOVER OPERATING REQUIREMENTS NEEDED FOR A "NOT LIKELY TO ADVERSELY AFFECT" DETERMINATION FOR PROJECTS LOCATED ON THE EEL RIVER BELOW THE CONFLUENCE OF THE VAN DUZEN RIVER

Projects located on the Eel River, downstream from the confluence of the Van Duzen River, are not likely to adversely affect the western snowy plover if:

1. Gravel extraction commences after September 15; **or**

2. Gravel extraction commences on or after August 16, and an USFWS authorized biologist has surveyed the entire gravel bar, on or after August 16th, and not found western snowy plover nests and/or chicks; **or**

3. Gravel extraction commences on or after August 16, where a USFWS authorized biologist has surveyed the entire gravel bar, on or after August 16th, found western snowy plover nests and/or chicks, and the operator:

    a. Has the bar surveyed each morning, by an USFWS authorized biologist, to locate the nests and/or chicks prior to gravel extraction; **and**

    b. Maintains a 300 meter buffer between the nests and/or chicks' morning location and the gravel extraction and grading operations; **and**

    c. Halts operations the first day no nests or chicks are found on the bar; **and**

    d. Continues surveying for two more consecutive days to locate chicks. Surveys may stop on the third consecutive day that no chicks are found. Gravel extraction operations, however, may resume on the second consecutive day.

NORTHERN SPOTTED OWL (NSO) OPERATING REQUIREMENTS NEEDED FOR A "NOT LIKELY TO ADVERSELY AFFECT" DETERMINATION FOR PROJECTS LOCATED WITHIN 0.25 MILES OF NSO HABITAT

1. Gravel extraction may occur on or after July 10, if there is no vegetation removal within NSO habitat, **and**;

2. No gravel extraction may occur within 0.25 miles of NSO habitat unless formal consultation with the USFWS has been completed.